

“(c) APPLICATION OF DEFINITION.—

“(1) IN GENERAL.—Effective as of November 1, 2003—

“(A) for purposes of subsection (a), the term ‘Internet access’ shall have the meaning given such term by section 1104(5) of this Act, as enacted on October 21, 1998; and

“(B) for purposes of subsection (b), the term ‘Internet access’ shall have the meaning given such term by section 1104(5) of this Act as enacted on October 21, 1998, and amended by section 2(c) of the Internet Tax Nondiscrimination Act (Public Law 108-435).

“(2) EXCEPTIONS.—Paragraph (1) shall not apply until June 30, 2008, to a tax on Internet access that is—

“(A) generally imposed and actually enforced on telecommunications service purchased, used, or sold by a provider of Internet access, but only if the appropriate administrative agency of a State or political subdivision thereof issued a public ruling prior to July 1, 2007, that applied such tax to such service in a manner that is inconsistent with paragraph (1); or

“(B) the subject of litigation instituted in a judicial court of competent jurisdiction prior to July 1, 2007, in which a State or political subdivision is seeking to enforce, in a manner that is inconsistent with paragraph (1), such tax on telecommunications service purchased, used, or sold by a provider of Internet access.

“(3) NO INFERENCE.—No inference of legislative construction shall be drawn from this subsection or the amendments to section 1105(5) made by the Internet Tax Freedom Act Amendments Act of 2007 for any period prior to June 30, 2008, with respect to any tax subject to the exceptions described in subparagraphs (A) and (B) of paragraph (2).”.

SEC. 4. DEFINITIONS.

Section 1105 of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended—

(1) in paragraph (1) by striking “services”;

(2) by amending paragraph (5) to read as follows:

“(5) INTERNET ACCESS.—The term ‘Internet access’—

“(A) means a service that enables users to connect to the Internet to access content, information, or other services offered over the Internet;

“(B) includes the purchase, use or sale of telecommunications by a provider of a service described in subparagraph (A) to the extent such telecommunications are purchased, used or sold—

“(i) to provide such service; or

“(ii) to otherwise enable users to access content, information or other services offered over the Internet;

“(C) includes services that are incidental to the provision of the service described in subparagraph (A) when furnished to users as part of such service, such as a home page, electronic mail and instant messaging (including voice- and video-capable electronic mail and instant messaging), video clips, and personal electronic storage capacity;

“(D) does not include voice, audio or video programming, or other products and services (except services described in subparagraph (A), (B), (C), or (E)) that utilize Internet protocol or any successor protocol and for which there is a charge, regardless of whether such charge is separately stated or aggregated with the charge for services described in subparagraph (A), (B), (C), or (E); and

“(E) includes a home page, electronic mail and instant messaging (including voice- and video-capable electronic mail and instant messaging), video clips, and personal electronic storage capacity, that are provided independently or not packaged with Internet access.”.

(3) by amending paragraph (9) to read as follows:

“(9) TELECOMMUNICATIONS.—The term ‘telecommunications’ means ‘telecommunications’ as such term is defined in section 3(43) of the Communications Act of 1934 (47 U.S.C. 153(43)) and ‘telecommunications service’ as such term is defined in section 3(46) of such Act (47 U.S.C. 153(46)), and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986 (26 U.S.C. 4251)).”, and

(4) in paragraph (10) by adding at the end the following:

“(C) SPECIFIC EXCEPTION.—

“(i) SPECIFIED TAXES.—Effective November 1, 2007, the term ‘tax on Internet access’ also does not include a State tax expressly levied on commercial activity, modified gross receipts, taxable margin, or gross income of the business, by a State law specifically using one of the foregoing terms, that—

“(I) was enacted after June 20, 2005, and before November 1, 2007 (or, in the case of a State business and occupation tax, was enacted after January 1, 1932, and before January 1, 1936);

“(II) replaced, in whole or in part, a modified value-added tax or a tax levied upon or measured by net income, capital stock, or net worth (or, is a State business and occupation tax that was enacted after January 1, 1932 and before January 1, 1936);

“(III) is imposed on a broad range of business activity; and

“(IV) is not discriminatory in its application to providers of communication services, Internet access, or telecommunications.

“(ii) MODIFICATIONS.—Nothing in this subparagraph shall be construed as a limitation on a State’s ability to make modifications to a tax covered by clause (i) of this subparagraph after November 1, 2007, as long as the modifications do not substantially narrow the range of business activities on which the tax is imposed or otherwise disqualify the tax under clause (i).

“(iii) NO INFERENCE.—No inference of legislative construction shall be drawn from this subparagraph regarding the application of subparagraph (A) or (B) to any tax described in clause (i) for periods prior to November 1, 2007.”.

SEC. 5. CONFORMING AMENDMENTS.

(a) ACCOUNTING RULE.—Section 1106 of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended—

(1) by striking “telecommunications services” each place it appears and inserting “telecommunications”; and

(2) in subsection (b)(2)—

(A) in the heading by striking “SERVICES”;

(B) by striking “such services” and inserting “such telecommunications”; and

(C) by inserting before the period at the end the following: “or to otherwise enable users to access content, information or other services offered over the Internet”.

(b) VOICE SERVICES.—The Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking section 1108.

SEC. 6. SUNSET OF GRANDFATHER PROVISIONS.

Section 1104(a) of the Internet Tax Freedom Act is amended by adding at the end thereof the following:

“(3) EXCEPTION.—Paragraphs (1) and (2) shall not apply to any State that has, more than 24 months prior to the date of enactment of this paragraph, enacted legislation to repeal the State’s taxes on Internet access or issued a rule or other proclamation made by the appropriate agency of the State that such State agency has decided to no longer apply such tax to Internet access.”.

SEC. 7. EFFECTIVE DATE.

This Act, and the amendments made by this Act, shall take effect on November 1, 2007, and shall apply with respect to taxes in effect as of such date or thereafter enacted,

except as provided in section 1104 of the Internet Tax Freedom Act (47 U.S.C. 151 note).

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

The bill (H.R. 3678), as amended, was passed.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, I also want to express my appreciation for the diligent work of my friend from Delaware. Senator CARPER has worked on this issue for years. We have had a number of others who have been involved in this issue. Of course, the chairman of the committee, Senator INOUE, has been very helpful during the day. We have had assistance from Senator ROCKEFELLER and Senator WYDEN, but I and the Senate owe a debt of gratitude for the work done by my friend from Delaware, working with our friend from New Hampshire.

PASSENGER RAIL INVESTMENT AND IMPROVEMENT ACT OF 2007—Continued

AMENDMENT NO. 3452 WITHDRAWN

Mr. REID. Mr. President, I ask unanimous consent that the Sununu amendment No. 3452 be withdrawn and the cloture motion be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

A PRODUCTIVE WEEK

Mr. REID. Mr. President, there will be no votes tomorrow. We have announced long since that we would have no votes Monday. We have a lot we are going to do Tuesday, the first of which is to complete the work on the important Amtrak legislation. There has been great progress made on that today.

I think we have had an interesting week. We may not be happy with the results—I say that because some are happy, some are not—but it has been a productive week. It has been a week in which, in spite of the divisiveness of the issues before us, they have been handled in a very collegial way. There have been strong feelings expressed on both sides, but it has been done, I think, in a way that brings credit to the Senate.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, just briefly, a couple of other observations, I would say that I know it is the position of the Senator from New Hampshire—of course, he can speak for himself, but it is the position of the Senator from New Hampshire, myself, and many others that we make this moratorium permanent. I think that still ought to be our goal in the future.

With regard to the week that is now coming to a conclusion, I would have to state it has been quite a good week, with a number of achievements that